

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2021-025-00149R

Parcel Nos. 1105200009, 1105200010, 1105200011, 1105400003

Candice and Nathan Swanson,

Appellants,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on April 6, 2022. Candice and Nathan Swanson were self-represented. Dallas County Chief Deputy Assessor Brian Arnold represented the Board of Review.

Candice and Nathan Swanson own four parcels in Dallas County locally known as 2393 240th Street, Dallas Center, Iowa; Parcel Nos. 1105200009; 1105200010; 1105200011; and 1105400003. The parcels were reclassified from agricultural to residential for the 2021 assessment. (Exs. A-1 – A-4).

The Swansons petitioned the Board of Review claiming the property was misclassified under Iowa Code section 441.37(1)(a)(1)(c). (Ex. C). The Board of Review denied the petition. (Ex. B).

The Swansons appealed to PAAB reasserting their claim. They believe the property should be classified agricultural.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). PAAB determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject property consists of four contiguous parcels totaling 30.25 acres.

Parcel #	Acres	Assessed Land Value	Assessed Building Value	Total Assessed Value
1105200009	1.69	\$5,630	\$0 - Unimproved	\$5,630
1105200010	5.00	\$148,630	\$406,630	\$554,760
1105200011	22.56	\$84,600	\$105,590	\$190,190
1105400003	1.00	\$3,750	\$0 - Unimproved	\$3,750

Parcel 1105200010 is improved with a two-story home, with several one-story additions, built in 1992. The dwelling has 3078 square feet of total living area, with a full walk-out basement with 1350 square feet of living-quarters-quality finish. It also has two decks and a 638 square foot attached garage. The improvements are listed in above-normal condition with a high-quality grade (2+10). Aerial photographs of the parcels dated November 23, 2019, depict two large ponds on the dwelling parcel, which are used for drainage from neighboring fields. (Ex. J). In her testimony, Candice Swanson noted these ponds are necessary for the neighboring fields and a previous lawsuit required the drainage tiles leading to the ponds to be maintained to prevent flooding/ponding on other properties.

Parcel 1105200011 is improved with a steel utility building with wood framing, 13 stalls, tack room, feed room, wash bay, and an office with a toilet room. The improvement was built in 2005 and is listed in normal condition with a good-quality grade (3+00). There is also a turnabout drive on the horse barn parcel, that is also used by neighbors. The aerial photograph also reflects multiple fenced pastures. (Ex. J).

Parcels 1105200009 and 1105400003 are unimproved parcels; one is the long driveway to the property, and the other is an irregular-shaped parcel to the far east.

The Swansons purchased the property, together with a tractor and some farm equipment, on January 22, 2021, for \$782,500 from the Jacobsens who had raised hay, as well as boarded and bred thoroughbred horses. The Assessor's records report a 2020 listing of the combined parcels for \$840,000. (Ex. A-2). The property record cards for the parcels indicate they had been classified agricultural since at least 2012 and perhaps since 2005. (Exs. A-1 - A-4). The classification was changed to residential for the January 1, 2021, assessment and notices were mailed to the Swansons on March 26, 2021. (Ex. 2).

The Swansons allowed the Jacobsens to remain on the property while the Jacobsens' new home was being constructed. Candice Swanson testified they moved into the home in early February 2021. According to Candice, they purchased the property with the intent to turn it into something they have always wanted – a little farm. The Swansons have befriended their neighbors, the McClures, who submitted a letter in support of the appeal and described how they had used the subject property in the past. (Ex. 5). According to John McClure, he and his father own and farm the adjacent property, and have an easement on the Swanson property to allow access to move their agricultural products. The McClures have rented pasture ground from the previous owners to graze their cattle, and have also taken grass/clover hay off the property for the last 10 or more years. Since the Swansons' purchase, the McClures have also arranged with the Swansons to take excess hay from a second cutting in 2021 for use for their cow/calf herd.

Since moving to the subject property in February 2021, the Swansons have traded in the existing tractor for a new tractor, mower, and rake. They also had their

baler repaired in order to start the season. (Ex. 1). According to Candice, their first year of hay production was quite a learning experience. She described the first cutting in June 2021 as yielding approximately 375 small bales which were advertised for sale on the internet at \$6 per bale. (Ex. 4). Some of the hay was kept for Swanson's animals. Photographs of the hay baling process and stored hay were submitted. (Ex. 3). After another cutting, approximately nine big round bales were given to their neighbors. They had three cuttings of hay in 2021. Candice testified that ideally, in a normal year, they could produce 100 small bales per acre per cutting. Their goal would be to bale 100 small bales per acre per cutting, which would result in more than 1000 bales because they have hay on more than 10 acres. She indicated their inexperience and the drought last year contributed to their lower yield. Nathan Swanson operated the tractor and hay equipment in the first season, but had an accident which put him out of commission, so Candice is now also personally involved the hay operation. She also testified they are improving the crop quality by spraying for weeds, seeding more, and properly irrigating the soil.

Candice testified they acquired two breeds of goats for breeding: myotonic and dwarf Nigerians. Their kidding season has just finished and of the eight kids born this year all but one has been presold at a price between \$450 and \$600 each. This was their second batch of kids. They recently received a flock ID for her registered myotonic (fainting) goats. (Ex.6).

She also acquired chicks in March 2021, of which sixteen currently remain and produce a dozen to a dozen and a half eggs each day. She intends to acquire more chickens, and currently has two coops. In 2021, she sold eggs mainly to family and friends as they would have them because they had to wait for the chicks to mature. Now, however, they have a connection with a shop in town to start selling eggs there. The Swansons' daughters also intend to show goats and chickens and are involved in their care.

In April or May 2021, the Swansons acquired two mares that Candice intends to breed. She has made a connection with a local trainer who has stallions available for breeding. Candice hopes to start breeding this year. Finally, Candice testified of their

intent to have cattle. She stated one pasture, the largest, could accommodate seven head of cattle, which is their goal for this year. There are also water hydrants on the property to provide a water source for future cattle.

It is this pasture that underwent a transformation as shown in the aerial photographs taken between March and November 2021. (Exs. E-K). In March 2021 the aerial photographs depicted a small portion of the pasture with an irregular shaped track carved into the ground. (Exs. E-F). She stated this pasture was initially hayed, but the bales were very weedy. Her husband and his employer then brought in excavating equipment and constructed a dirt track for riding dirt bikes and use by their horses. By November 2021, aerial photographs of this pasture depict a much larger dirt track encompassing the entire pasture. (Exs. G, H, & K). According to Candice the track is not permanent and they intend to return it to hay production. She believed this process would take only a weekend. She indicated this coming year, they intend to bale everything in the 5-to-6-acre pasture.

Candice acknowledged they did not have a farm number or crop ID, but indicated when they filed their 2021 taxes they would include any income from farming. Both Candice and Nathan are employed in non-farming occupations, but Candice opined her husband's dream job would be farmer.

Chief Deputy Dallas County Assessor Brian Arnold testified on behalf of the Board of Review. He stated the subject property had been assessed as agricultural property while owned by the Jacobsens. Arnold testified the classification was changed when the Swansons purchased the property. He asserted the Swansons were not going to use the property for horse breeding, like the Jacobsens. Further, Arnold testified the Swansons provided only limited information at the time of the initial protest in May 2021 and did not request an oral hearing before the Board of Review. Arnold personally inspected the subject property in March 2022 and noted some discrepancies in the dwelling listing, but also saw nine goats, three horses, twenty chickens, the barn, and equipment. He acknowledged he did not have information about the Swansons' use of the property until the time of this hearing, but believed most of their intentions were

future plans. Arnold also indicated his opinion of the correct classification would not change even if the track was not present.

Analysis & Conclusions of Law

The Swansons assert the subject property is misclassified as residential and should instead be classified agricultural. They bear the burden to prove the property is misclassified. Iowa Code § 441.21(3).

Iowa assessors are to classify and value property following the provisions of the Iowa Code and administrative rules adopted by the Iowa Department of Revenue (Department) and must also rely on other directives or manuals the Department issues. Iowa Code §§ 441.17(4), 441.21(1)(h). The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. See Iowa Admin. Code r. 701-71.1. The assessor shall classify property according to its present use. *Id.* Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* There can be only one classification per property, except as provided for in paragraph 71.1(4) “d”. *Id.* The determination of a property’s classification “is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). The assessment is determined as of January 1 of the year of the assessment. §§ 428.4, 441.46; Iowa Admin. Code R. 701-71.2. Particularly when not previously adjudicated, a property’s prior classification is not conclusive and binding in subsequent years because each “tax year is an individual assessment which does not grow out of the same transaction.” *Cott v. Bd. of Review of City of Ames*, 442 N.W.2d 78, 81 (1989). See also § 441.21(3)(b)(3).

Residential property “shall include all land and buildings which are primarily used or intended for human habitation.” R. 701-71.1(4). This includes the dwelling as well as structures used in conjunction with the dwelling, such as garages and sheds. *Id.*

Agricultural property includes land and improvements used in good faith primarily for agricultural purposes. R. 701-71.1(3). Land and nonresidential improvements shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest and fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. *Id.* Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in the subrule. *Id.*

Following the above rules, PAAB must analyze the proper classification of the subject property as of the assessment date – January 1, 2021. On that date, the property was still owned and occupied by the Jacobsens. The Swansons' purchased the property on January 22 and moved into the home in February. The Board of Review acknowledged it did not have much information about the Swansons' use of the property until a physical inspection in March 2022 and the hearing on this appeal in April 2022. PAAB is familiar with the classification practices of many counties, which often are triggered by a sale of a property, but also, generally involve some period of time after the purchase for an analysis of how the property's use might change. We recommend Dallas County consider such a policy. In this case, the change in classification to residential appears to have been premature.

PAAB has decided a number of cases that involve challenges to classification of properties as residential versus agricultural. A review of these decisions demonstrates the inquiry is fact-intensive and based on the unique circumstances of each case. Dallas County, a fast-growing population center, has seen a number of classification challenges after residents purchase real property formerly farmed and agriculturally classified. Recently in *Overgaard v. Dallas Cnty. Bd. of Review*, Docket No. 2021-025-00346R (Mar. 8, 2022), PAAB considered the classification of a 16.62-acre site improved with a dwelling but also used as a 13-acre hay farm. The testimony demonstrated bales produced from the property were sold or traded. PAAB determined the property was used primarily in good faith for agricultural purposes with an intent to profit and modified the property's classification to agricultural. Similarly, in *Denman v.*

Dallas County Bd. of Review, Docket No. 2019-025-00222R (December 2, 2020), we found the taxpayer's use of almost every portion of his 10.61-acre site for hay production, both before and after the construction of his home, along with his long-term intentions to farm the property and an adjoining family farm was sufficient to show the property was presently and primarily used for agricultural purposes. Denman's property and his family's adjoining land was rented by a farmer and self-described hay specialist in exchange for rent at the rate of \$200 per acre. This was a longstanding arrangement between the parties and was expected to continue. This was sufficient for PAAB to find the activity was for intended profit.

In contrast in *Curnes v. Dallas County Bd. of Review*, Docket No. 2021-025-10010R (August 23, 2021), Curnes had recently purchased the site and constructed a residence, but he claimed his use of a portion of the 10.03-acre site for a monarch conservation program along with hay production qualified as agricultural real estate. Aside from stating hay production was occurring, however, Curnes provided no evidence about the hay production and therefore PAAB concluded he had not shown the property's primary use was for agricultural purposes with an intent to profit.

Based on the evidence presented, since the Swansons moved onto the property they have each been actively involved with the ongoing hay production. That endeavor has been fruitful, but they are in the first year and concede it is a learning process. They also listed and sold the hay they baled. They have plans to improve the hay production and anticipate substantial bales will be produced. They have repaired existing equipment and acquired additional equipment to aid in this production. They have acquired livestock: goats and chickens, which have either been sold or have produced agricultural products. Their intent to expand these endeavors is credible. They have also acquired two mares with an intent to breed them, and have expressed a good faith desire to expand into a cattle operation. We note, as it relates to the animals, that currently the bulk of the Swansons' operations with regard to the goats and chickens are or appear to be geared toward earning a profit from their endeavors, which is required by law in order to receive an agricultural classification. However, the horses, if not bred for sale and instead used merely for pleasure or as pets would not otherwise

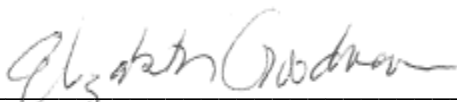
qualify. While some of these activities are future oriented, many of them are presently occurring, even after a short period of ownership. Additionally, their use a portion of their acreage for recreational activities, which may be temporary, does not sway us to disregard the agricultural endeavors. This evidence leads us to conclude that even if the Swansons had owned and occupied the property as of January 1, 2021, the classification of the property should have been agricultural. On these facts we conclude the property is presently being used in good faith for agricultural purposes with an intent to profit. Should those facts change in the future, the Board of Review may revisit the classification of the subject property.

Viewing the record as a whole, we find the Swansons submitted sufficient evidence that the primary use of the property as of January 1, 2021, was agricultural with an intent to profit and thus they have established that the subject property was misclassified.

Order

PAAB HEREBY MODIFIES the Dallas County Board of Review's action and ORDERS the classification of the property be changed to agricultural.

PAAB ORDERS the Board of Review to revalue the property as agricultural real estate and submit the valuation to PAAB within 15 days of the date of this Order. The Swansons will have 10 days from the submission of the valuation to file an objection to the valuation, if they have one. PAAB will issue a final order upon consideration of the valuation and any objection.


Elizabeth Goodman, Board Member


Dennis Loll, Board Member


Karen Oberman, Board Member

Copies to:

Candice and Nathan Swanson by eFile

Dallas County Board of Review by eFile